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| 10/785,383 | 02/24/2004 | Ernest J. Storrer | INIS-1-1003 | 6508 |
| 25315 7590 08/05/2010 BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104 | | | | |
| EXAMINER | | | | |
| LU, JIPING | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3743 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing-patent@blacklaw.com

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Office Action Summary

Application No.

10/785,383

Applicant(s)

STORRER ET AL.

Examiner

Jiping Lu

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Status

1. Claims 1-42 have been cancelled. New claims 43-47 have been added and now remain in the case.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 43-47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed limitations regarding similarly-shaped members (claim 43), three-dimensional lattice structure (claim 43), rigid strand (claim 46), tunnel-shaped plate (claim 45), flexible membrane (claim 45), and the first direction is approximately ninety degrees relative to the second direction (claim 47) constitute new matter which are not supported by the originally filed specification. The applicant is required to point out from the original specification with reference numerals to show the support for each and every claim element in claims 43-47.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 43, 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenander (U. S. Pat. 4,203,714) in view of Ferrand (U. S. Pat. 3,150,029) or De Winter (U. S. Pat. 3,811,287) and Creskoff (U. S. Pat. 3,506,747).

Wenander shows an apparatus attachable to a vacuum source for removing moisture from a building structure comprising a grid2 , a tunnel-shaped plate 3 supportable on a portion of the grid 2, the plate having at least one vacuum attachment port (between 3 and 4) to permit fluid communication between the building structure and a vacuum source. Ferrand shows a grid having a first plurality of members 2 arranged in a first direction and a second plurality of similarly-shaped members 1 arranged in a second direction, the second plurality of members 1 supported on the first plurality of member 2 to form a three-dimensional lattice structure (Fig. 7), the first direction different from the second direction, the grid configurable to be place on at least a portion of the building structure. De Winter shows a grid having a first plurality of members 4 arranged in a first direction and a second plurality of similarly-shaped members 5 arranged in a second direction, the second plurality of members 5 supported on the first plurality of member 4 to form a three-dimensional lattice structure (Fig. 1), the first direction different from the second direction, the grid configurable to be place on at least a portion of the building structure. Creskoff teaches a concept of providing grid and plate and vacuum attachment port with sealing membrane 24-32 for sealing the structure among grid, plate and vacuum attachment port. Therefore, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to modify the apparatus of Wenander to include a three -dimensional lattice structure grid as taught by Ferrand or De Winter in order to pursue an intended use and to further modify the apparatus of Wenander to include sealing membrane as taught by Creskoff in order to seal the structure among grid, plate and vacuum attachment port and therefore improve the moisture removal efficiency. As to the claimed plastic sheet material of sealing membrane, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the sealing membrane made by any desired material in order to pursue an intended use and obtain a predictable sealing result, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. As to the claimed limitations in last three lines of claim 43, it is a common practice in the sealing art to extend sealing membrane past a periphery of one component for sealing that component relative to other component.

6. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenander (U. S. Pat. 4,203,714) in view of Ferrand (U. S. Pat. 3,150,029) or De Winter (U. S. Pat. 3,811,287) and Creskoff (U. S. Pat. 3,506,747) as applied to claim 43 above, and further in view of Rountree (U. S. Pat. 1,713,398).

The apparatus of Wenander as modified by Ferrand or DeWinter and Creskoff as above includes all that is recited in claim 44 except for the vacuum attachment port includes a barbed nozzle. Rountree teaches a concept of providing vacuum attachment port with a barbed nozzle (claim 1) same as claimed. Therefore, it would have been obvious to one having ordinary skill in

the art at the time the invention was made to further modify the apparatus of Wenander to include a barbed nozzle as taught by Rountree in order to pursue an intended use.

Response to Arguments

7. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KENNETH RINEHART can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jiping Lu/
Primary Examiner
Art Unit 3743

J. L.